

APPEAL NO. 022757  
FILED DECEMBER 11, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 11, 2002. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the second quarter.

The claimant appealed, contending that his "exhibit #5" contains a detailed narrative "sufficient to meet the requirement of Rule 130.11(d)[sic]." The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) through a total inability to work as set out in Rule 130.102(d)(4). Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer determined that the claimant did not provide a narrative from a doctor which specially explains how the injury causes a total inability to work.

The claimant's appeal contends that his Exhibit No. 5 is sufficient to meet the requirement of Rule 130.11(d). We note that the claimant's Exhibit No. 5 consists of several Work Status Reports (TWCC-73) with no narrative whatsoever. Further as the carrier points out, Rule 130.11(d) deals with the monthly payment of impairment income benefits. We believe the claimant means that his Exhibit No. 6 meets the requirements of Rule 130.102(d)(4). The claimant's Exhibit No. 6 is a narrative from the treating doctor; however the evaluation why the claimant can do no work in any capacity only states that the claimant cannot walk or stand for more than a few minutes at a time and that "prolonged sitting" aggravates or increases stiffness and pain in the claimant's leg, knee, and ankle. As the hearing officer noted, the treating doctor "did not define what prolonged sitting constituted" and that the claimant was able to sit for an hour during the CCH "with out any apparent difficulty." Whether or not the claimant supplied a narrative report which specifically explains how the injury causes a total inability to work was a question of fact for the hearing officer. The hearing officer's determination that the claimant did not provide a narrative report pursuant to Rule 130.102(d)(4) and is therefore not entitled to SIBs for the second quarter, is supported by sufficient evidence

and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge